

D-7800
ADM 1.10

MEMORANDUM

To: Regional Director, PN, MP, LC, UC, GP
Attention: PN-3700, PN-3702, MP-820, LC-3100, LC-3103,
UC-440, GP-3800
Area Manager, Phoenix, AZ
Attention: PxAO-8200, PxAO-8300
Director, Administrative Service Center
Attention: D-2940
Director, Management Services
Attention: D-7800, D-7810

From: Linda Waring Wilson
Manager, Acquisition and Assistance Management Services

Subject: Reclamation Acquisition Regulation ((RAR) Revision
Project Electronic Transmittal No 98-01, Supplement 3

1. Purpose: To transmit revisions to the RAR.
2. Effective date: February 20, 1998.
3. Expiration date: In effect until revised.
4. Background: This memorandum (and its supplements) is used to issue final acquisition regulation revisions during fiscal year 1998. The attached RAR changes are made to implement FAC 97-03 and to make a myriad of other editorial and substantive changes.

Draft revisions were issued electronically for comment on January 21, 1998. Several comments were received which resulted in improvement to the final product. Comments on substantive issues are summarized below. Comments which were editorial in nature are not discussed, but all such suggestions were adopted. We would, as always, like to thank all commenters for their in-depth review of the draft changes.

a. Comment on WBR 1401.7001-3(b)(2)(ii)(B): RM ACM 01-01 deals with financial assistance agreements. Is this a correct reference for this coverage?

Response: RM ACM 01-01 establishes Reclamation-wide procedures and guidance for the effective use of grants and cooperative agreements. Included within this guidance is reference to the Reclamation Financial and Assistance Handbook (RFAH), which is Reclamation's primary tool for entering into financial assistance agreements. Coverage is provided within the RFAH for requirements which apply to grants and cooperative agreements under P.L. 93-638. Similarly, coverage is provided under WBR 1401.7001-3(b)(2)(ii)(B) as it relates to D-7800 review of

prenegotiation objectives for construction contracts executed under P.L. 93-638.

Under P.L. 93-638 (Indian Self-Determination and Education Assistance Act), as amended, 638 “contracts” are not considered “procurement contracts,” and 638 “grants/cooperative agreements” are not considered agreements executed under the Federal Grants and Cooperative Agreements Act. However, D-7800 has determined that the review/approval thresholds which apply to typical procurement contracts and financial assistance agreements are also valid for 638 contracts and agreements. Therefore, existing regulations and guidance/procedures within the RFAH and RARS will remain until the DOI/HHS P.L. 93-638 Internal Agency Procedures are issued; hopefully, by the end of fiscal year 1998.

b. Comment on WBR 1404.8000: There are references to “all contracts.” Suggest that this be more specific. The TSC probably does not want copies of copier contracts, ground maintenance contracts, etc. Conceivably they might want copies of contracts for construction or major equipment purchases where the specs were prepared by the region.

Response: The title of WBR 1404.8000 has been changed to read, “Information copies required by the Technical Service Center (TSC) for construction related contracts.”

c. Comment on WBR 1404.8000: I don’t understand what the justification is for us to send copies of all construction related documents to Denver when they were not involved in the spec preparation and so many copies when they were. We already have to send two copies of all contracts, amendments, and modifications to the Regional Records office.

Response: Three situations are listed in the clause (as rewritten) for sending solicitation/specifications and associated documents to the TSC for specifications that were not prepared with TSC involvement:

Factory inspection required. Factory inspection may be required for specifications prepared without TSC involvement. D-8160 is responsible for getting specifications to Reclamation’s factory inspectors for all jobs.

Submittal review required by TSC. The regions have at times prepared solicitations without TSC assistance that required the contractor to make submittals to TSC codes for approval (example paint). The TSC would need copies of the specifications to complete submittal review.

Special request by TSC. This is a catch all for situations not covered by the above two. Typically this would involve the construction liaisons in D-8160. The construction liaisons may be asked by the regions to provide assistance with construction activities that may be unique. The construction liaisons may also know of some particular construction job which may have application to other upcoming work, and they want to see how the contractor performs the work.

The TSC is requesting abstracts for all jobs to maintain their cost and pricing data base. For some types of construction (example road work), more work is probably done under

solicitation/specifications prepared without TSC involvement than with TSC involvement.

d. Comment on WBR 1404.8000: This office feels that the requirement to provide copies for items (a), (b), (e), (f), and (g) without consideration of a dollar amount limitation will increase the amount of labor needed to generate the paperwork. Any increase in labor at a time when staffing is already stretched takes time away from important required activities. A \$1,000,000 limitation on (a), (b), (e), and (f) and \$500,000 on (g) would help relieve the strain and probably not affect the information gathered.

Response: The section has been substantially rewritten, although, for the reasons cited above, dollar thresholds are not in order. Also, as a result of reviewing this coverage to respond to various comments, the TSC recommended that WBR 1404.8111-3 be removed. This section required that specification numbers be assigned in addition to the PIIN. They have not assigned specification numbers since about 1993 and don't know of any regions that are assigning numbers other than the PIIN. Therefore, this paragraph was deleted.

e. Comment on WBR 1406.303-2: I noticed that the language referencing electronic certification in WBR 1406.303-2 was struck out (unfortunately). How come?

Response: See following comment and response. We are working with the office of Acquisition and Property Management (PAM) on the issue of electronic signatures for FAR 6.303 and FAR 13.501 justifications.

f. Comment on WBR 1413.106-3(b): It appears that the wording "can be submitted electronically and do not require an original signature" at WBR 1413.106-3(b) conflicts with the change at WBR 1406.303-2(b).

Response: The coverage in the first reference applies to actions up to the simplified acquisition threshold, i.e., \$100,000. For these actions, an original signature is not required on whatever sole source justification document is acceptable to the contracting officer under local procedures. The second reference is to actions greater than the simplified acquisition threshold but not exceeding \$5,000,000 being conducted under the Test Program for Certain Commercial Items at FAR Subpart 13.5. For these actions, an original signature on the sole source justification is required. Also see explanation of change 5(e) below.

g. Comments on WBR 1413.504(a):

(1) Questions have arisen lately about reimbursement from imprest/FedSelect without an approved requisition. The revised section of WBR 1413.305-4(a) indicates that an individual may be reimbursed by the imprest cashier for all purchases over \$100 by presenting a requisition or SF-1164, Claim for Reimbursement for Expenditures on Official Business.

The use of a requisition would require use of IDEAS/PD and the approval of the supervisor, program office, and finally a purchasing agent or CO, but the use of an SF-1164 only requires the

approval of an individual's supervisor.

Since FAR 13.305-3(b) allows third party draft transactions up to \$2,500, it would seem that a reasonable interpretation of the WBR would be that any employee could make purchases up to \$2,500, with supervisor approval on the SF-1164, and get reimbursed from the imprest cashier with a FedSelect check. Is this what is intended? If so, purchasing agents will no longer need worry about purchases of supplies, from any source, that are under \$2,500.

(2) At WBR 1413.305-4(a) it cites the use of the SF-1164 form. Is this form to be used only when an individual is on official business? Can this form be used by any employee when the individual determines the need for items that exceed \$100, for example, a pair of safety boots, safety glasses, etc., and an individual with a purchase card is not readily available? What can this form be used to purchase and what is the dollar limit? Could there be more of an explanation on the uses and requirements of this form, or is there a current regulation that covers the use of this form? Also, are there Imprest regulations that cover the authorization for purchases under \$100? If so, could these also be cited in this paragraph?

Response: Coordination with the Finance and Accounting Services (FAS) resulted in the following explanation. "We in FAS believe that all purchases under \$2,500 should be procured using the RMBC as the first priority. Use of the purchase card is a simplified process and has proven to be the most efficient and effective method. However, in the rare cases for which the RMBC is not an option, we believe that the use of the SF-1164 is also not necessary. We will accept an invoice as long as it contains an approving official's signature as well as the proper cost accounting data (18 or 19-digit cost structure, 7-digit cost center and 4-digit object class code)."

Based on this, we have revised the coverage at WBR 1413.305-4 to recognize either a requisition, a SF-1164, or a receipt or invoice (without the \$100 limitation) as a valid prerequisite to the receipt of imprest funds. Recognizing the operational autonomy of individual imprest funds, we have added that all of this is to be done in accord with local procedures. For example, here in Denver requisitions for imprest fund transactions have not been approved by a purchasing agent for well over a year. Rather, the cashier can run questionable transactions (e.g., refreshments and other entertainment) past us for our seal of approval. The SF-1164 is not an acquisition form and, therefore, analysis in the RAR is not warranted. The form is used as a payment or reimbursement vehicle to eligible individuals for allowable travel and/or other expenses incurred under appropriate administrative authorization.

h. Comment on WBR 1416.505: Who is the task order/delivery order contract ombudsman?

Response: Linda Waring-Wilson, the Reclamation competition advocate.

i. Comment on WBR 1419.811-80(c): Delete "DI-1940 (See DIAR 1404.601)" and substitute therefor "SF 279 (FAR 4.602(c))."

Response: Change made.

j. Comment on WBR 1432.906: The vendor express payment procedures are included under WBR 1432.906, Contract finance payments. I'd recommend it be renumbered as WBR 1432.11-80 and put under WBR 1432.11, Electronic Funds Transfer. Also the information in WBR 1432.906-80(a)(2) is contained in FAR 32.1103(a) & (b).

Response: Changes made, including deletion of the clause prescriptions in the original subparagraph (2).

k. Comment on WBR 1452.102: Since provisions/clauses which can be accessed electronically will be incorporated by reference, does this mean the AAMS will keep the older clauses accessible on the Web as well?

Response: The coverage at FAR 52.201 speaks in terms of provisions and clauses being available electronically to "offerors and prospective contractors." Therefore, maintaining the electronic availability of out-of-date provisions and clauses on the AAMS Homepage is not required. However, AAMS archives full renditions of the RAR by ET supplement and can furnish outmoded material electronically to either acquisition offices or contractors upon request.

5. Explanation of changes:

- a. The CFR reference at WBR 1401.7001-3(b)(2)(ii)(B) is cited with greater specificity.
- b. WBR 1403.101-70(b) is deleted since the DI-1960 is now included in the DIAR (IARS 95-41 dated 10/7/96).
- c. WBR 1404.8000 is rewritten to reflect current TSC distribution requirements.
- d. WBR 1404.8111-3 is deleted and the Table of Contents for Part WBR 1404 is modified accordingly.
- e. WBR 1406.303-2 is revised to differentiate between normal simplified acquisition actions and the those being conducted under the Test Program for Certain Commercial Items at FAR 13.5. Since garden variety simplified acquisitions are exempt from FAR Part 6, technical certifications are not required for them. Rather the coverage at FAR 13.106-1(b)(1) (FAC 97-03) applies. "Soliciting from a single source. For purchases not exceeding the simplified acquisition threshold, contracting officers may solicit from one source if the contracting officer (emphasis added) determines that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreements, or industrial mobilization)."
- f. WBR 1409.505-2(b) is deleted since the 376 DM 4.4G (10-14-92) no longer exists. Contemporary coverage is at 376 DM (10-1-96) which does not discuss organizational conflicts of interest. Therefore, contracting officers should handle such potential situations in the procurement of information technology in accordance with FAR Subpart 9.5.

g. WBR PART 1413 and its Table of Contents are reorganized to conform with FAC 97-03, FAR Case 94-772.

h. WBR 1416.505 is added to designate the task order/delivery order contract ombudsman pursuant to FAR 16.505(b)(4). The Table of Contents is correspondingly changed.

i. The U.S.C. reference in WBR 1417.8003 is corrected.

j. WBR 1419.811-3 is changed to delete a reference which no longer exists. The reference in WBR 1419.811-80 is updated. The paragraphs have been placed in correct numerical order, and the Table of Contents for Part WBR 1419 has been changed accordingly.

k. The CFR reference in WBR 1423.401 is updated.

l. WBR 1425.402 is changed to reflect the new trade agreements thresholds published by the US Trade Representative in the Federal Register on December 31, 1997 at page 68347.

m. WBR 1432.906-80 is changed and renumbered as WBR 1432.11-80 to conform with current FAR coverage.

n. The reference in WBR 1433.206-80(a)(2) is updated.

o. WBR 1436.508-80(g) is revised to prescribe that the Reclamation Order of Preference - Construction clause applies when not using the Uniform Contract Format.

p. The reference in WBR 1436.609-80 is updated.

q. WBR 1443.107-80 is changed to recognize that any modification to a contract for a commercial item that does not change it from a commercial item to a noncommercial item is exempt from the requirement for cost or pricing data.

r. References are updated in WBR 1443.301.

s. The references in WBR 1443.301(a)(3) are updated.

t. WBR 1446.710-80 is revised for clarity.

u. References are updated in WBR 1449.107 and WBR 1449.303-3.

v. WBR 1452.102 is revised in accordance with FAC 97-03, FAR Case 94-772. New coverage eliminates the requirement for publication and codification of clauses as a prerequisite to incorporation by reference. WBR 1452.102-2 is deleted and the Table of Contents for Part WBR 1452 revised.

w. WBR 1452.209-80 is modified to add fill-in lines for the identification of any organizational conflicts of interests.

x. WBR 1452.211-70 is deleted. The deviation covered by this clause is now part of the DIAR clause at 1452.210-70, Alternate I. The Table of Contents for Part WBR 1452 is revised.

y. The prescription referenced in WBR 1452.211-81 is corrected.

z. WBR 1452.231-80(b)(2)(i) is revised pursuant to FAC 97-03, FAR Case 97-007.

aa. The FAR reference in WBR 1452.236-80 is updated.

bb. WBR 1452.246-80 is revised for clarity.

cc. WBR 1453.213 is revised to update references and to provide interim instructions for use of Reclamation forms 7-711 and 7-2080 until complete implementation of IDEAS obviates their use.

dd. An editorial change is made to the Table of Contents for Part WBR 1453.

ee. References are updated in WBR 1453.303-1415-2.

6. Action required:

a. Pen and ink changes: See revised WBR 1453.213.

b. Filing instructions. Replacement pages are contained in Attachment 1.

Remove Pages:

PART WBR 1401
PART WBR 1403
TOC PART WBR 1404
PART WBR 1404
PART WBR 1406
PART WBR 1409
TOC PART WBR 1413
PART WBR 1413
TOC PART WBR 1416
PART WBR 1416
PART WBR 1417
TOC PART WBR 1419
PART WBR 1419
PART WBR 1423

Replace Pages:

PART WBR 1401
PART WBR 1404
TOC PART WBR 1404
PART WBR 1404
PART WBR 1406
PART WBR 1409
TOC PART WBR 1413
PART WBR 1413
TOC PART WBR 1416
PART WBR 1416
PART WBR 1417
TOC PART WBR 1419
PART WBR 1419
PART WBR 1423

PART WBR 1425	PART WBR 1425
TOC PART WBR 1432	TOC PART WBR 1432
PART WBR 1432	PART WBR 1432
PART WBR 1433	PART WBR 1433
PART WBR 1436	PART WBR 1436
PART WBR 1443	PART WBR 1443
PART WBR 1446	PART WBR 1446
PART WBR 1449	PART WBR 1449
TOC PART WBR 1452	TOC PART WBR 1452
PART WBR 1452	PART WBR 1452
TOC PART WBR 1453	TOC PART WBR 1453
PART WBR 1453 (with only one form, WBR 1453.303-1415-2, being replaced)	PART WBR 1453 (and revised form WBR 1453.303-1415-2)

We would like to remind you that the entire RAR, including these revisions, is available in PDF format on our Internet homepage: <http://www.usbr.gov/aamsden/>.

7. Point of contact: Ron Simonich, (303) 445-2447.

Attachments

bc: D-7800 (8 copies w/attachment)
D-7810 (14 copies w/attachment)

WBR:RSimonich:jl:2/20/987:445-2499
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